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SENATE BILL 3260 By
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HOUSE BILL 3268
By Scroggs

AN ACT to amend Tennessee Code Annotated, Title 62, Chapter 39 and Title 62, Chapter 6, Part 3, relative to the licensing of home inspectors.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 62, Chapter 39, is amended by adding Sections 2, and 4 through 9 of this act as new Part 4.

SECTION 2. This act shall be known and may be cited as the "Licensing of Home Inspectors Act".

SECTION 3.

(a) Tennessee Code Annotated, Section 62-39-201(a)(2), is amended by deleting such subdivision in its entirety and by substituting instead the following:

(2) The commission shall consist of fifteen (15) members, two (2) of whom shall be public members and one (1) of whom shall be a full-time educator of appraisal education in a postsecondary school in Tennessee.

(b) Tennessee Code Annotated, Section 62-39-201(a)(3), is amended by deleting such subdivision in its entirety and by substituting instead the following:

(3) Six (6) of the members shall be real estate appraisers and six (6) of the members shall be home inspectors.

(c) Tennessee Code Annotated, Section 62-39-201(g), is amended by deleting such subsection in its entirety and by substituting instead the following:

(g) The public members of the commission shall not be engaged in the practice of real estate appraising or home inspections.

SECTION 4. For the purposes of this act, unless the context otherwise requires:

(1) "Client" means any person who hires, for a fee, a home inspector's services;

(2) "Commission" means the real estate appraiser commission established pursuant to § 62-39-201;

(3) "Home inspector (inspector)" means any person or entity, who examines for a fee, any component of a dwelling, through visual means and through normal user controls, without the use of mathematical and/or engineering sciences. This does not include licensed tradespeople performing maintenance, repair or installation work, individuals acting in the capacity of insect infestation inspections and repairs due to that inspection or a real estate appraiser or banking official who is determining the value of the improved property or individuals acting in the capacity of a governmental employee or governmental agent or licensed professional architectural or engineering services or any professional person employed to inspect/review the aesthetic qualities of a house (i.e., interior designers, landscape architects);

(4) "Home inspection (inspection)" means an inspection done on residential property of not more than four (4) dwelling units per building, including ancillary buildings as defined in the current standards of practice approved by the commission. The purpose and scope as well as the limitations and exclusions of a home inspection shall be as defined by the current standards of practice as approved by the commission; and

(5) "Statement of services" means a statement setting forth the inspection's omissions from the standards of practice and any other limitations, conditions, terms or provisions regarding the home inspection service and other services provided by the inspector. It shall also identify other services provided for an additional fee.

SECTION 5. No person shall perform a home inspection in this state without first obtaining a home inspector's license as defined in this act.

SECTION 6. The commission shall issue a license for one (1) year, provided a reasonable licensing fee has been paid to the commission and the applicant has complied with the following requirements:

(1) A certificate of passing an exam as administered by the state of Tennessee or a body selected by the state is provided;

(2) Insurance certificates are provided for the amounts required by the commission for the current year for both errors and omissions insurance and liability insurance;

(3) The applicant is at least twenty-one (21) years of age;

(4) The applicant has not violated any of the requirements of this act;

(5) The applicant has not been convicted of an offense that bears directly on the fitness of the applicant to be licensed;

(F) The applicant has a high school diploma or equivalent; and

(G) The applicant has completed two hundred fifty (250) home inspections under a licensed home inspector in the state of Tennessee and has completed at least two (2) years of training under a licensed home inspector in the state of Tennessee.

SECTION 7. To obtain renewal of a license, a person shall have:

(1) Completed twenty (20) hours of continuing education approved by the commission for home inspector training;

(2) No violations of the rules and regulations of the commission dealing with home inspectors;

(C) Submitted the required insurance certificates as required under this act to the commission; and

(D) Paid the required license renewal fee.

SECTION 8. (a) A license shall be granted to persons who have:

(1) Been in the home inspection business for two (2) years as defined by their business license for the county where the business is located;

(2) Passed the home inspector's exam as approved by the commission;

(3) Submitted insurance certificates for errors and omission insurance and liability insurance as required by the commission; and

(4) Not been convicted of an offense that bears directly on the fitness of the applicant to be licensed.

(b) The provisions of this section shall terminate and shall be repealed one (1) year from the effective date of this act.

SECTION 9. (a) No inspector shall accept or offer commissions or allowances, directly or indirectly, from or to parties other than the client, unless fully disclosed to the client in writing.

(b) No inspector shall offer to or perform repair or maintenance work on a property which such inspector has inspected in the preceding twelve (12) months, nor shall such inspector use the inspection to deliberately obtain work in another field or profession.

(c) No inspector shall accept compensation, financial or otherwise, from more than one (1) interested party for the same service without the consent of all interested parties.

(d) An inspector shall disclose to such inspector's client any financial interest or any relationship which may affect the client's interest.

SECTION 10. (a) An inspector shall provide a legible, written or other permanent report of the results of the inspection to the client within a reasonable period of time.

(b) The report shall include a copy of the statement of services along with any omission from the standards of practice.

(c) An inspector shall respect the client's rights as to the inspection report and disclose the findings to third parties only with the client's express consent.

SECTION 11. Tennessee Code Annotated, Title 62, Chapter 6, Part 3, is amended by deleting Sections 62-6-301, 62-6-302, 62-6-303 and 62-6-304 in their entirety.

SECTION 12. For the purpose of promulgating rules and regulations, this act shall take effect upon becoming law, the public welfare requiring it. For all other purposes this act shall take effect June 1, 2000, the public welfare requiring it.